

REMARKS

In the Restriction Requirement mailed October 11, 2006, the Examiner has restricted the claims to one of the following inventions under 35 U.S.C. 121:

- I. Claims 32-39, drawn to system comprising three patches, classified in class 424, subclass 449.
- II. Claims 40-48, drawn to system comprising three patches patch and flexible wrap, classified in class 424, subclass 449.
- III. Claims 49-54, drawn to method of providing therapy comprising plurality of patches, classified in class 424, subclass 449.
- IV. Claims 55-62, drawn to method of providing therapy comprising plurality of patches, classified in class 424, subclass 449.

In response to the Restriction Requirement, Applicants hereby elect, with traverse, Group II (claims 40-48). **If the restriction is continued**, Applicants will cancel remaining claims 32-39 and 49-62 (with prejudice), and will reserve the right to reintroduce them in one or more divisional applications at a later date.

The Restriction Requirement is traversed on the basis that Restriction Requirements are optional in all cases. MPEP 803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it arguably may include claims to distinct or independent inventions. MPEP 803.

All of the pending claims relate to systems and methods that provide therapy to a portion of a body. As acknowledged by the Examiner at page 2 of the restriction requirement, each of the systems and methods include first, second and third patches. Applicant notes that Groups II and IV further include a flexible wrap. If Applicant selects Groups II or IV, the Examiner will be looking for first, second and third patches (which relates to Groups I and III) anyway as well as a flexible wrap. Thus, Applicant respectfully submits that all claims can all be easily searched and examined together.

As part of maintaining the restriction, the Examiner states at page 2 of the Office Action that "the different inventions have different designs because invention II requires a flexible wrap that is not required by invention I." Applicant can not see where the statement adequately indicates that Groups I-IV are distinct inventions. Clarification is respectfully requested.

In addition, Applicant also fails to see the relevance of the statements because each of claims recites first, second and third patches (Groups I and III) as well as a flexible wrap (Groups II and IV). Applicant further notes that the Examiner will be searching for each of these items if Applicant selects Groups II or IV so there is no additional work to search for Groups I and III.

The Examiner is invited to telephone Applicants' attorney Andrew Peret at 262-646-7009, or the below-signed attorney at 612-349-9592, to facilitate prosecution of this application. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

According to PAIR, this Restriction Requirement was mailed on 10/11/2006, and on 10/16/2006 was returned to the Office as undeliverable (see attached copy of the returned document, including envelope). Applicant's address, which is correct as it appears on the document, apparently was not visible in the address window of the envelope when it was sealed. It appears that no attempt was made by the Office to remail the Restriction Requirement. On January 15, 2007, Applicant happened by chance to discover this Restriction Requirement on PAIR.

In view of the error by the Office in failing to properly mail this Restriction Requirement, Applicant respectfully requests that all extension fees be waived to January 15, 2007.

If any fee is deemed to be due, it may be charged to Deposit Account No. 19-0743.

RESPONSE TO RESTRICTION REQUIREMENT

Serial Number: 10/645,447

Filing Date: August 20, 2003

Title: A SYSTEM FOR PROVIDING THERAPY TO A PORTION OF A BODY

Page 9

Dkt: 1443.051US1

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (262) 646-7009 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

RICKY W. PURCELL

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(262) 646-7009

Date February 7, 2007 By / Andrew Peret /
Andrew R. Peret
Reg. No. 41,246

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22314-1450 on this 7th day of February 2007.

CANDIS BUENING

Name Candis Buening

Signature Candis Buening